



Department of Justice

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MONTANA MAN SENTENCED FOR SEXUAL EXPLOITATION OF CHILDREN AND RECEIPT, POSSESSION AND DISTRIBUTION OF CHILD PORNOGRAPHY

BILLINGS – Basil Pete Herbst, a 42-year-old resident of Billings, was sentenced today to a term of 840 months in federal prison in connection with his guilty plea to seventeen counts of sexual exploitation of children and receipt, possession, and transportation of child pornography. Herbst was also ordered to pay a special assessment of \$2,000 and will be under supervision for life.

In an Offer of Proof filed by the United States, the government stated it would have proved at trial the following:

On July 9, 2007, law enforcement began an investigation after a foster family reported concerns about Herbst and their mildly handicapped adult foster daughter.

On July 24, 2007, in relation to this investigation, Herbst gave his consent for agents to review his laptop computer for images of child pornography. He also stated that he owned a Kodak digital camera and a digital video camera.

On July 25, 2007, computer forensic examiners viewed the images stored on the hard drive of Herbst's laptop computer. During the review, 40 images of a young juvenile female depicting nudity, including the lascivious exhibition of the girl's genitalia were discovered. Several photographs also depicted the girl performing fellatio on a white adult male who had brown pubic hair. At least three additional photographs depicted vaginal intercourse between the girl and a white adult male who had brown pubic hair. Although the adult male's face was not depicted in those pictures, he was clearly wearing a silver thumb ring and a tattoo appeared on his abdomen above the genitals.

Further investigation revealed that the pictures were taken by Herbst with a Kodak digital camera. Another officer, familiar with Herbst and his family, identified the young girl in the pornographic pictures as Herbst's daughter. The officer also stated that Herbst has many tattoos and when the officer interviewed Herbst on July 24, 2007, he was wearing a silver thumb ring on his left hand.

As the investigation continued, the agents found numerous sexually explicit images and several movies of the same girl taken between approximately 2003 or 2004 and 2007. Law enforcement were able to identify various locations and hotels where Herbst produced the child pornography images. Herbst took the pictures in various locations, including an outdoor location

in Billings in a vehicle somewhere in the county outside of Billings, at the Dude Rancher Lodge in Billings, at the Kelly Inn in Billings, by the Yellowstone River in Billings, at the LaQuinta Inn in Great Falls, at the Quality Inn in Dickinson, North Dakota, at his residence in Billings and elsewhere.

The agents also found other sexually explicit images of another young female relative of Herbst's that he had taken at several locations as well. The images depicted the girl engaged in a lascivious exhibition of her genitals as well as involved in performing fellatio on Herbst. Herbst produced the images using materials that traveled in interstate or foreign commerce and the images themselves traveled as well.

Sexually explicit images of Herbst's daughter have been found in two other child pornography cases investigated in Billings, and images of her have also been seen by employees of the National Center for Missing and Exploited Children during their analysis of images in computer cases from other jurisdictions.

Herbst transported the child pornography images from Montana to North Dakota and back during his travels. In addition, Herbst had other child pornography images that he had received via the Internet and saved to his computer from a date unknown and continuing through July 26, 2007, when his computer was seized.

Herbst was a parent, legal guardian or person having custody or control over the two girls when the conduct occurred. Many of the images were taken by Herbst when he was home from Iraq where he was in the military.

The investigation was a cooperative effort between the Federal Bureau of Investigation, the Billings Police Department and the U.S. Immigration and Customs Enforcement. Assistant United States Attorney Marcia K. Hurd prosecuted the case.

This case was brought as part of Project Safe Childhood. In February 2006, the Department of Justice launched Project Safe Childhood, a nationwide initiative designed to protect children from online exploitation and abuse. Led by the United States Attorneys' Offices, Project Safe Childhood marshals federal, state and local resources to better locate, apprehend, and prosecute individuals who exploit children via the Internet, as well as identify and rescue victims. For more information about Project Safe Childhood, please visit www.projectsafechildhood.gov/.

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